IN THE HIGH COURT OF JUDICATURE AT BOMBAY
O. O. C. J.

ARBITRATION PETITION NO.96 OF 2007

RON Mathews Thazhath Prasad Petitioner
vs.
Shadaab Sharik s/o.Shamsher Mohd. Respondent

Mr.Mangesh M.D. Patel for the petitioner.

Mr.S.J.Mishra i/b.M/s.SRS Legal for the respondent.

CORAM : ANOOP V. MOHTA,J.

DATED : 5th April, 2007

P.C.

The petitioner and the respondent had entered into a partnership dated 26thJuly, 2006. The name and style of the partnership was "Cricket Unlimited". The petitioner has terminated the said partnership by notice dated 1.12.2006. The petitioner has further invoked the clause of arbitration and appointed even his Arbitrator. The respondent in response to the same failed to nominate the Arbitrator till this date.

2. At this stage, the petitioner has invoked Section 9 of the Arbitration & Conciliation Act, 1996 seeking a restraint order in the following terms:

> (a) That, this Hon'ble Court, be pleased to by an order of injunction to restrain the respondent, their officers, servants, agents and/or anybody claiming through or under them, from running the

business at sports extravaganza at atria mall or any other place using the concept of the petitioner.

(b) That, this Hon'ble Court may kindly be pleased to direct the respondent to disclose on oath the profit earned by using the concept of the petitioner.

(c) That, the Hon'le Court may kindly be pleased to direct the respondent to deposit the profit earned by him in this Hon'ble Court.

3. The learned counsel appearing for the respondent makes a statement that the business in question, as alleged by the petitioner, in the premises in question, the respondent is working as a Manager of "Sports Extravaganza". Admittedly, the respondent is not the proprietor of Sports Extravaganza. The submission that the Sports Extravaganza is nothing but a proprietary concern of the respondent's wife and in the guise of the same, the respondent is doing the business though prohibited under the partnership deed in question is unacceptable. The same cannot be treated as business activities of the partnership in question.

4. Considering the scope of Section 9 of the Arbitration & Conciliation Act, no interim relief and specially in the facts and circumstances of the case as prayed can be granted against a third person.

6. Even otherwise there is no case made out for grant

of any interim relief as prayed in the petition. The petition is therefore dismissed. However, the petitioner will be at liberty to take out appropriate proceedings, if so advised.

. Petition dismissed.

[ANOOP V. MOHTA,J.]